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EX PARTE OR LATE FILED

July 19, 2001

**BY HAND**

Ms. Magalie Roman Salas  
Secretary  
Federal Communications Commission  
445 12th Street, SW  
Washington, DC 20054

**EX PARTE  
PRESENTATION**

**RECEIVED**

JUL 19 2001

Re: **CC Dkt. No. 96-98**

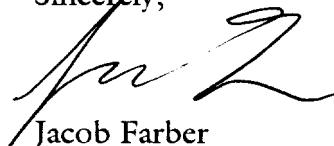
FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

Dear Ms. Salas:

On July 18, 2001, Gregory Lawhon, Senior Vice President of Public Policy and General Counsel of Birch Telecom, Inc. and Albert Kramer and Jacob Farber of this law firm met with Jeff Carlisle and Jonathan Reel of the Common Carrier Bureau. We discussed Birch's deployment of advanced services and why the availability of the unbundled network element platform (UNE-P) is critical to facilities-based competition. The attached materials were distributed at the meeting.

If you need any further information or have any questions, please do not hesitate to call me.

Sincerely,



Jacob Farber

Enclosure

cc: Jeff Carlisle (FCC, Room 5-C356)  
Jonathan Reel (FCC, Room 5-C261)

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# **UNE-P and Facilities-Based Competition**

*July 18, 2001*

**Greg Lawhon, Senior Vice President of Public Policy and General Counsel**

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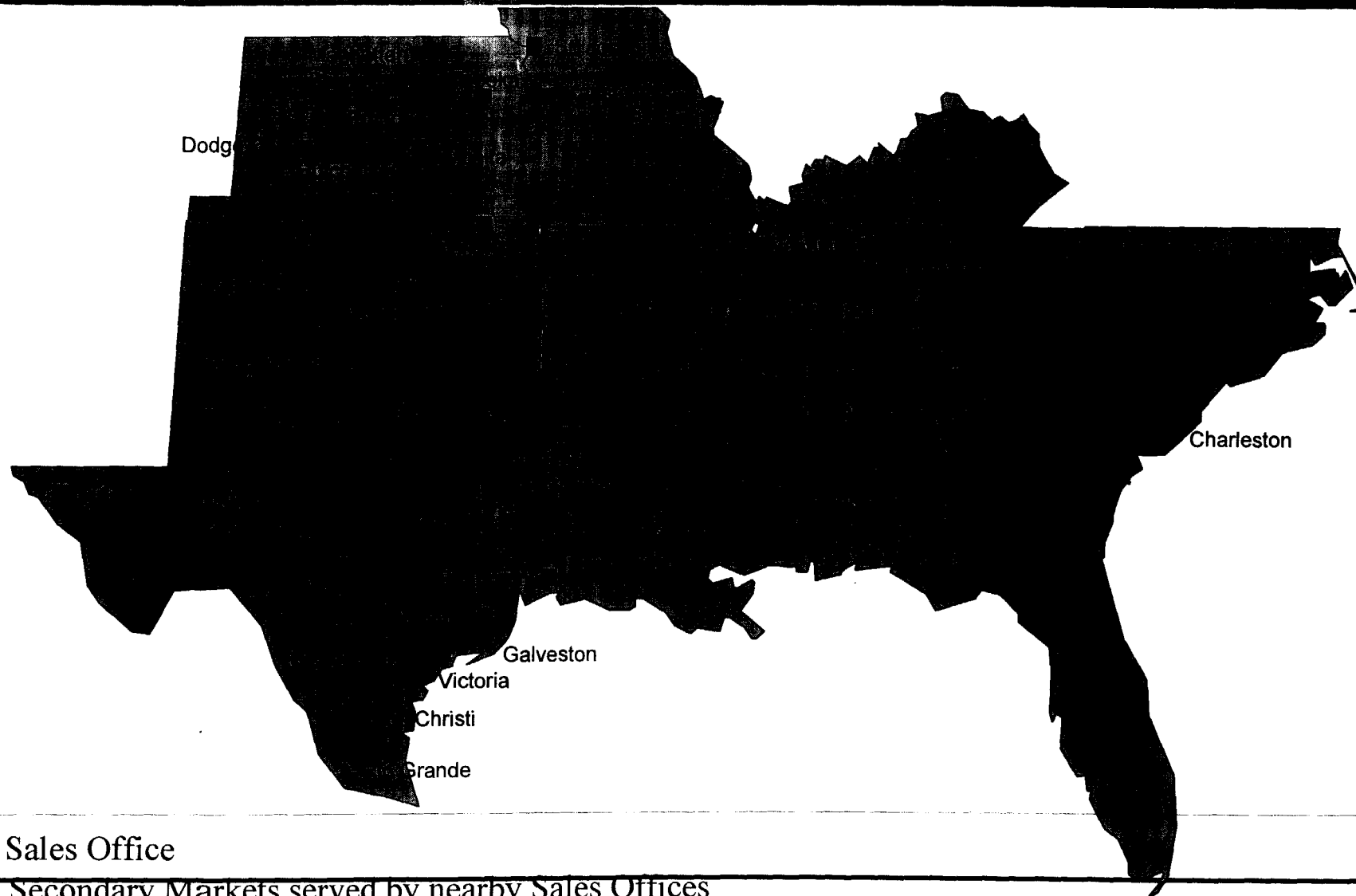
## Who We Are

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- Birch serves 72,000 customers with 245,000 lines.
  - Currently operational in four SWBT (Texas, Missouri, Oklahoma, Kansas) and five BellSouth (Georgia, Tennessee, N. Carolina, S. Carolina, Alabama) states, in 37 metro markets in those states.
  - Birch serves the lost market - customers and areas that would otherwise not see the benefits of competition.
    - Birch targets truly small businesses.
    - Residential customers constitute 26% of our total customers and 10% of our lines.
    - 70% of Birch's customers have 4 or fewer lines (yet 45% of revenue from 7+ line customers).
    - Birch serves outer suburbs and small towns, not just the dense business districts of large cities--we are in Beaumont as well as Dallas.
    - We serve customers in every county in Kansas.
  - By contrast, the CLECs who oppose an increase in the line cap serve much larger customers (their average line sizes range from 8-10 to several times higher) and concentrate on the dense urban cores of Tier 1 markets.
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## Where We Serve

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■ Sales Office

▲ Secondary Markets served by nearby Sales Offices

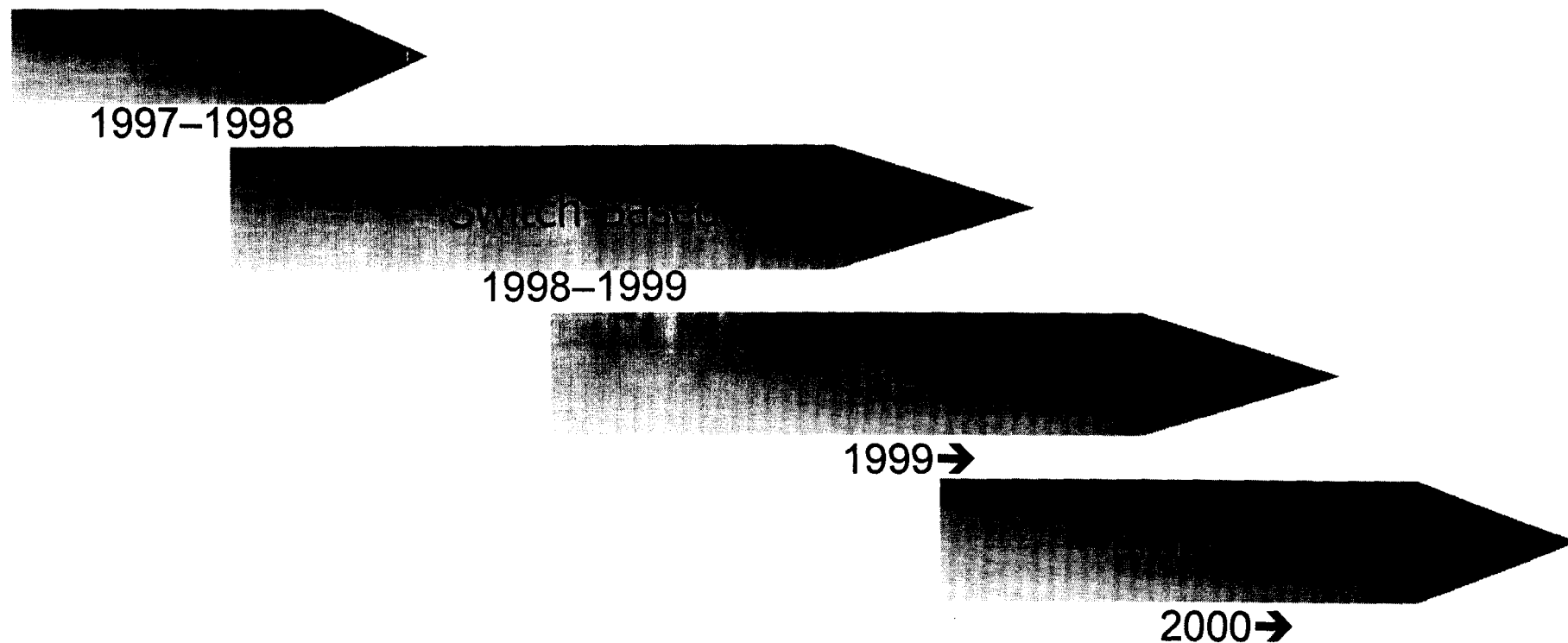
## **UNE-P is Key to Our Next-Generation Facilities-Based Strategy**

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- UNE-P is the key to our facilities-based strategy; it allows us to develop the customer base and revenue stream that are necessary precursors to effective facilities-based competition.
- To ensure that Birch and other competitive carriers can successfully transition to and develop a facilities-based strategy to serve small business and residential consumers, the Commission must increase the line cap.
  - UNE-P is the key to our facilities-based strategy for the small business and residential market segment. It allows us to develop the customer base and revenue stream that are necessary precursors to effective facilities-based competition. When cost-effective softswitch alternatives are available, the customer base will be migrated to facilities.
  - If Birch were not permitted to serve larger customers in downtown business districts, it could not afford to provide service to its targeted customer base. There simply isn't sufficient revenue from serving small business and residential customers alone to pay all the fixed overhead costs of the business.

## Birch's Service Evolution

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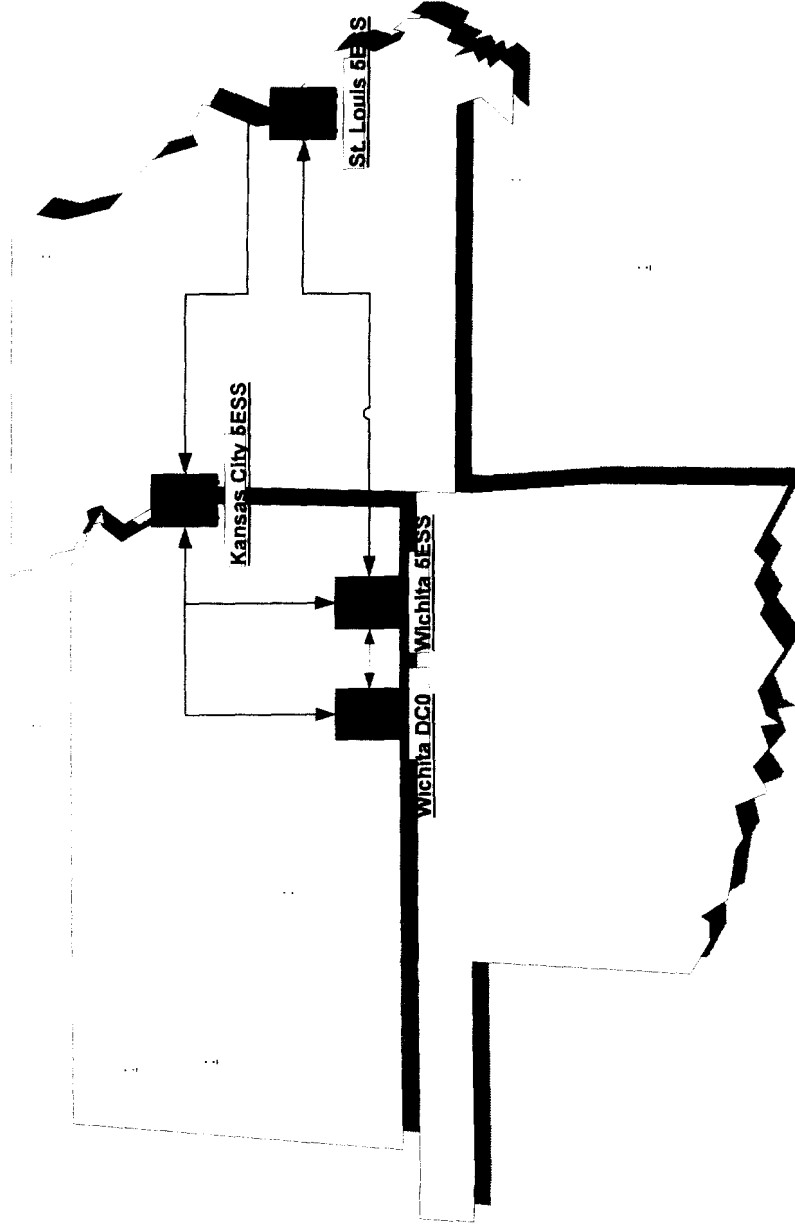
- Birch began providing service in St. Joseph, Missouri and smaller communities in Kansas in 1997 through resale.
  - Birch installed switches in 1998 in Kansas City, St. Louis, and Wichita.
  - Birch was a UNE-P pioneer in Texas, using its experience there to expand UNE-P to Missouri, Kansas and Oklahoma.
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## **Birch's Facilities-based Strategy**

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- Circuit switches currently in place in three markets serving customers at DS1-size and above.
  - Long-distance network operational.
  - ATM switching network operational.
  - Have replaced resold DSL with Birch's own DSL network.
    - 158 collocations in place in Southwestern Bell central offices.
    - Provisioning DSL customers in Texas, Missouri, Kansas, and Oklahoma.
    - Deployed DSL in Texas first because UNE-P was available there first.
  - \$105 million in capital expenditures in 2000.
  - Will deploy softswitches once technology is ready.
    - Have been testing various vendors' products in proof of concept laboratory for the past nine months.
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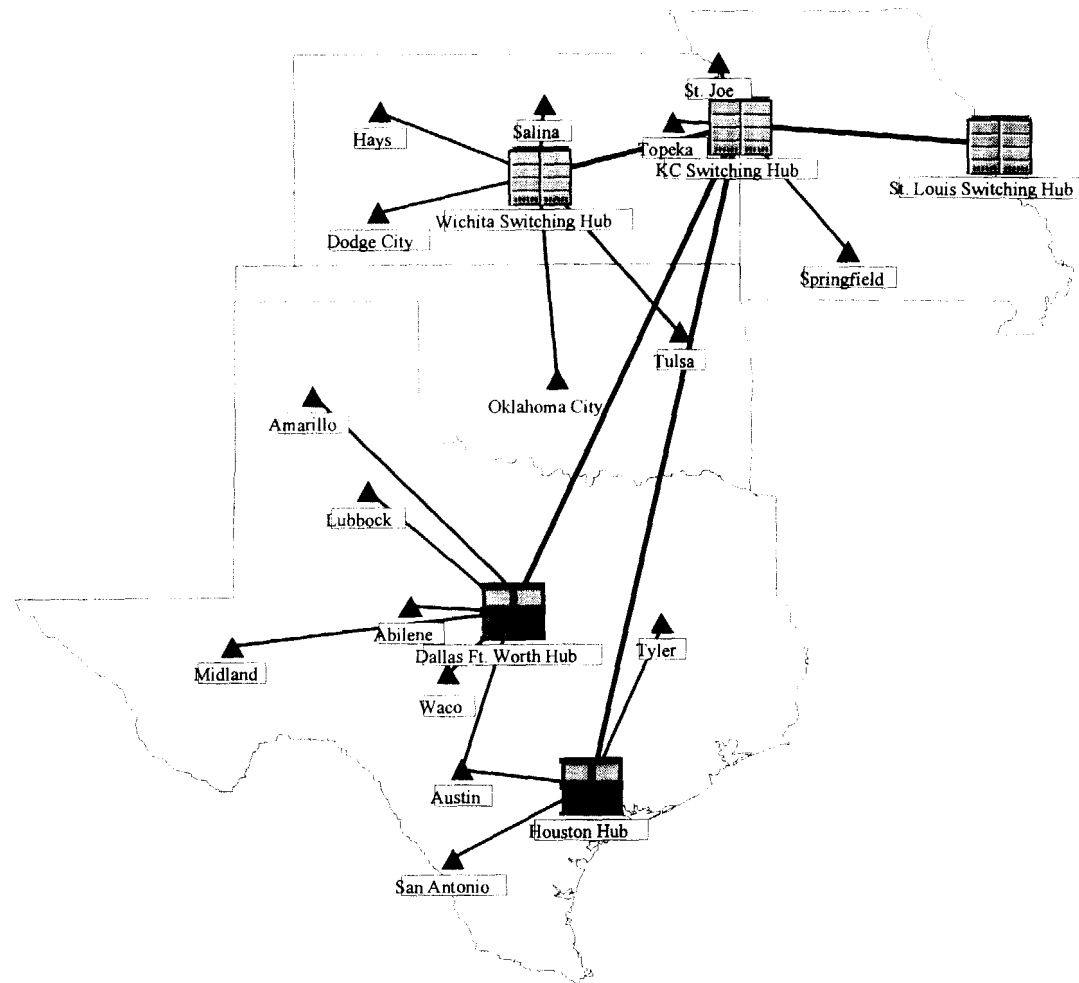
## Birch's Circuit Switch Network



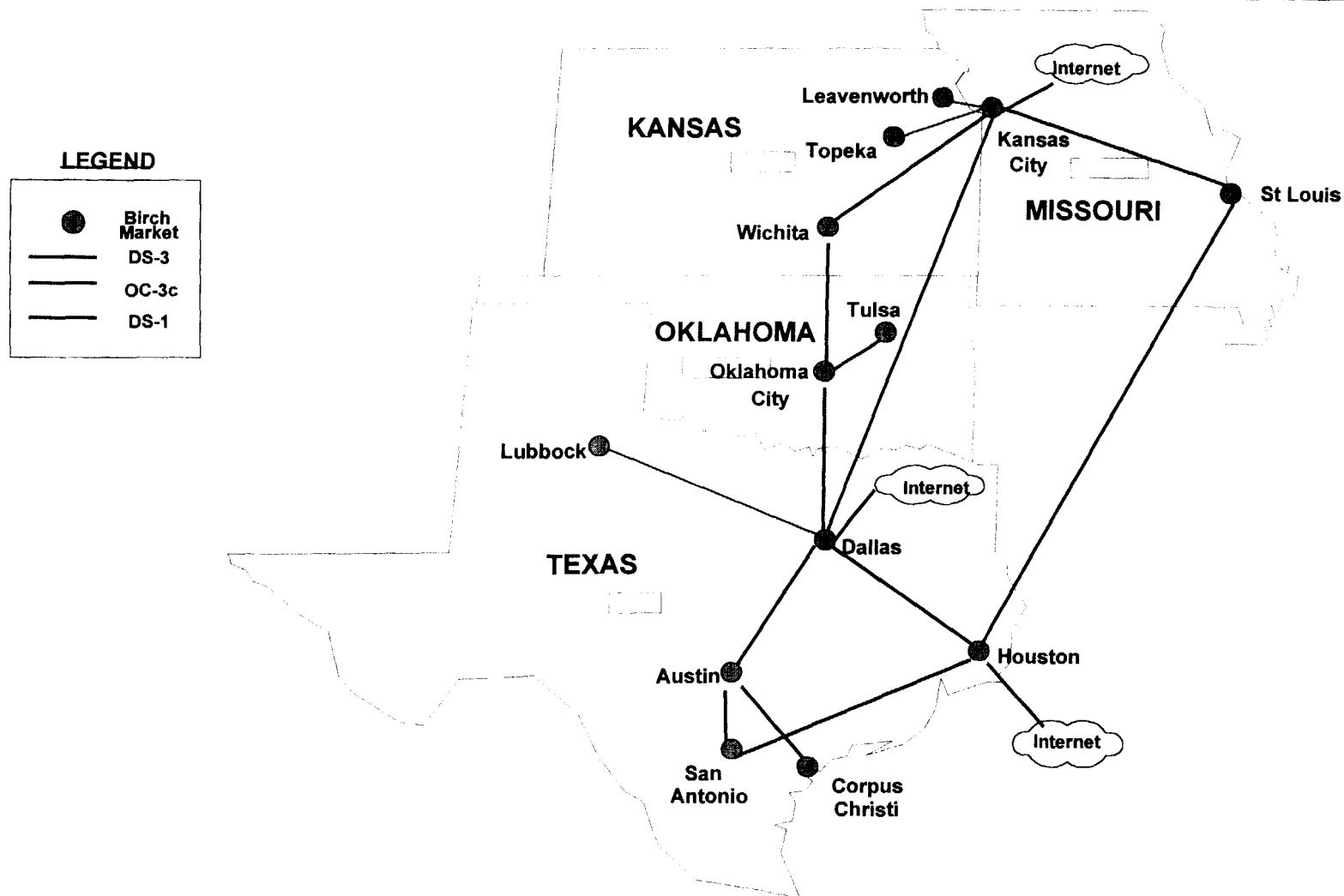


## Birch's Long Distance Network

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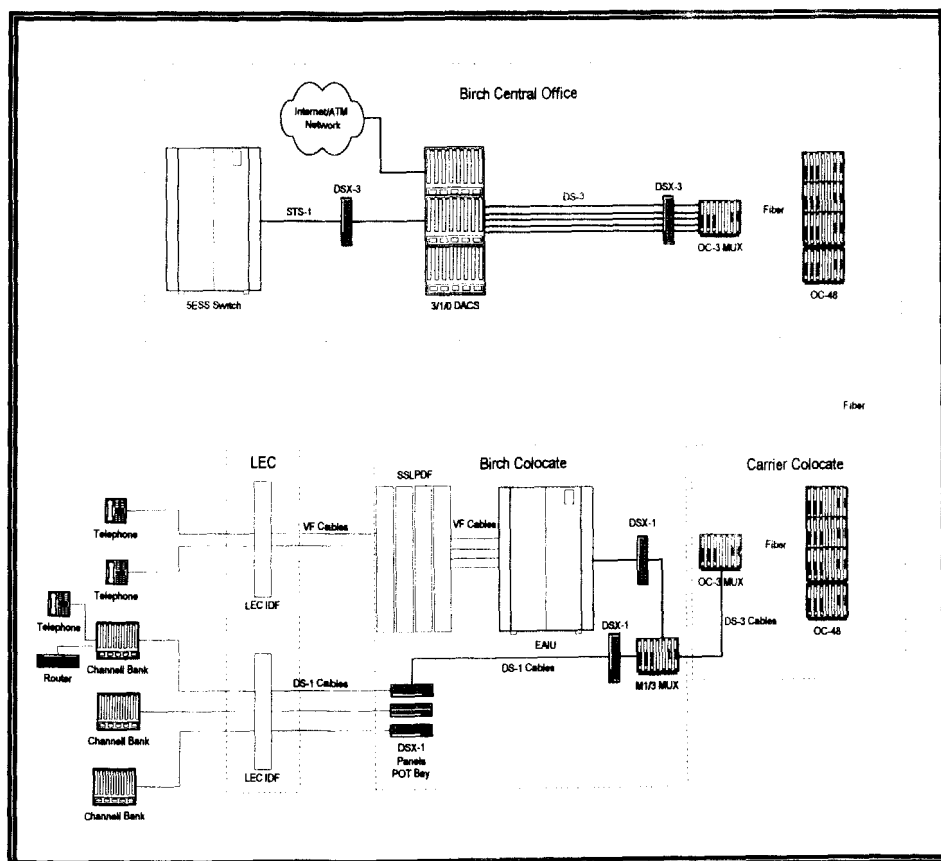


# Birch's ATM Backbone Network

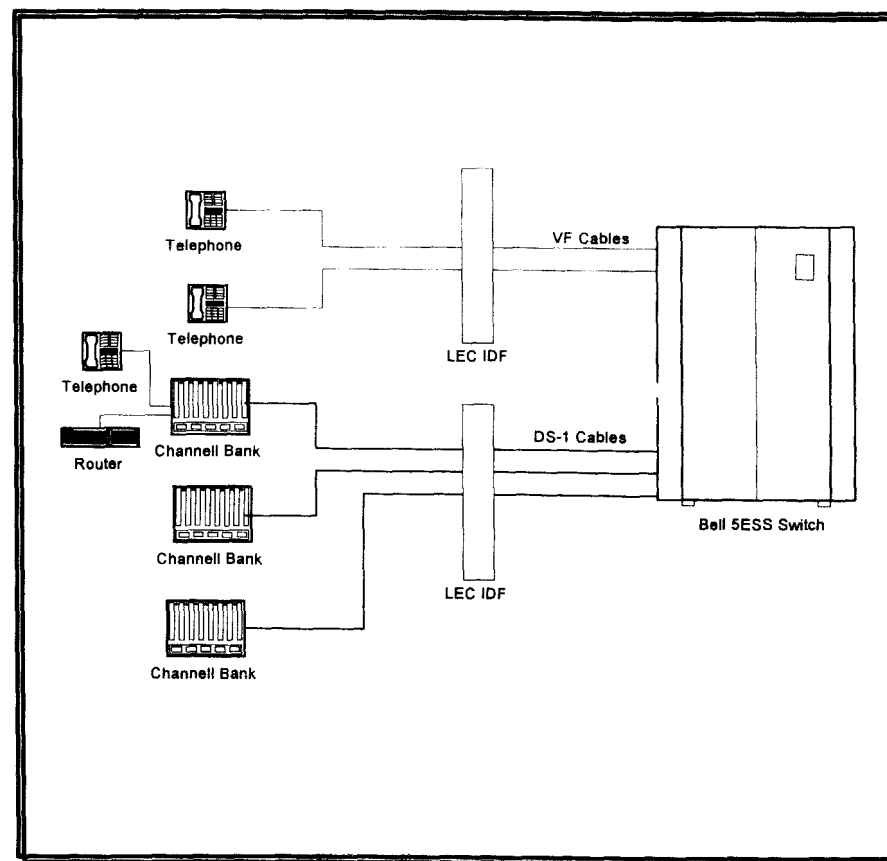


## Birch's Current Voice Network Architecture

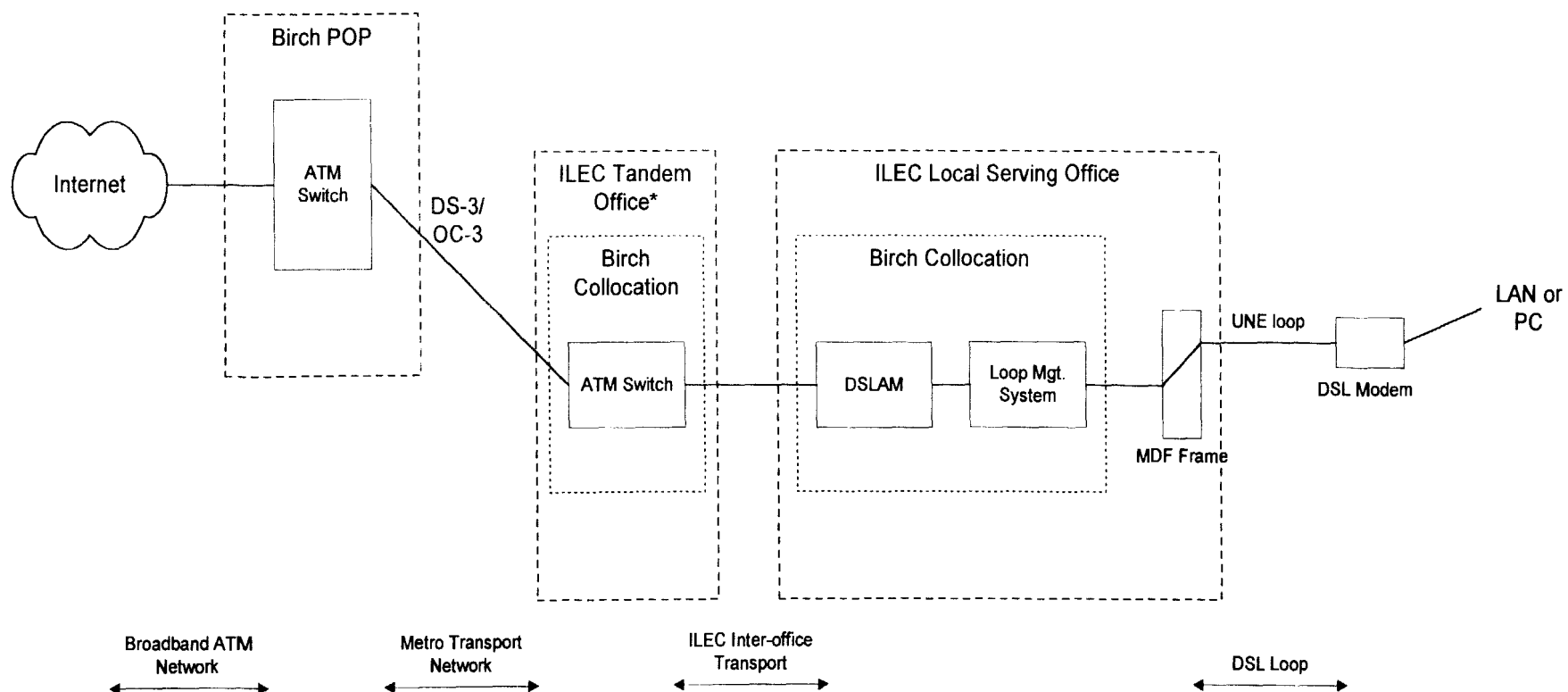
### Birch's Circuit Switch



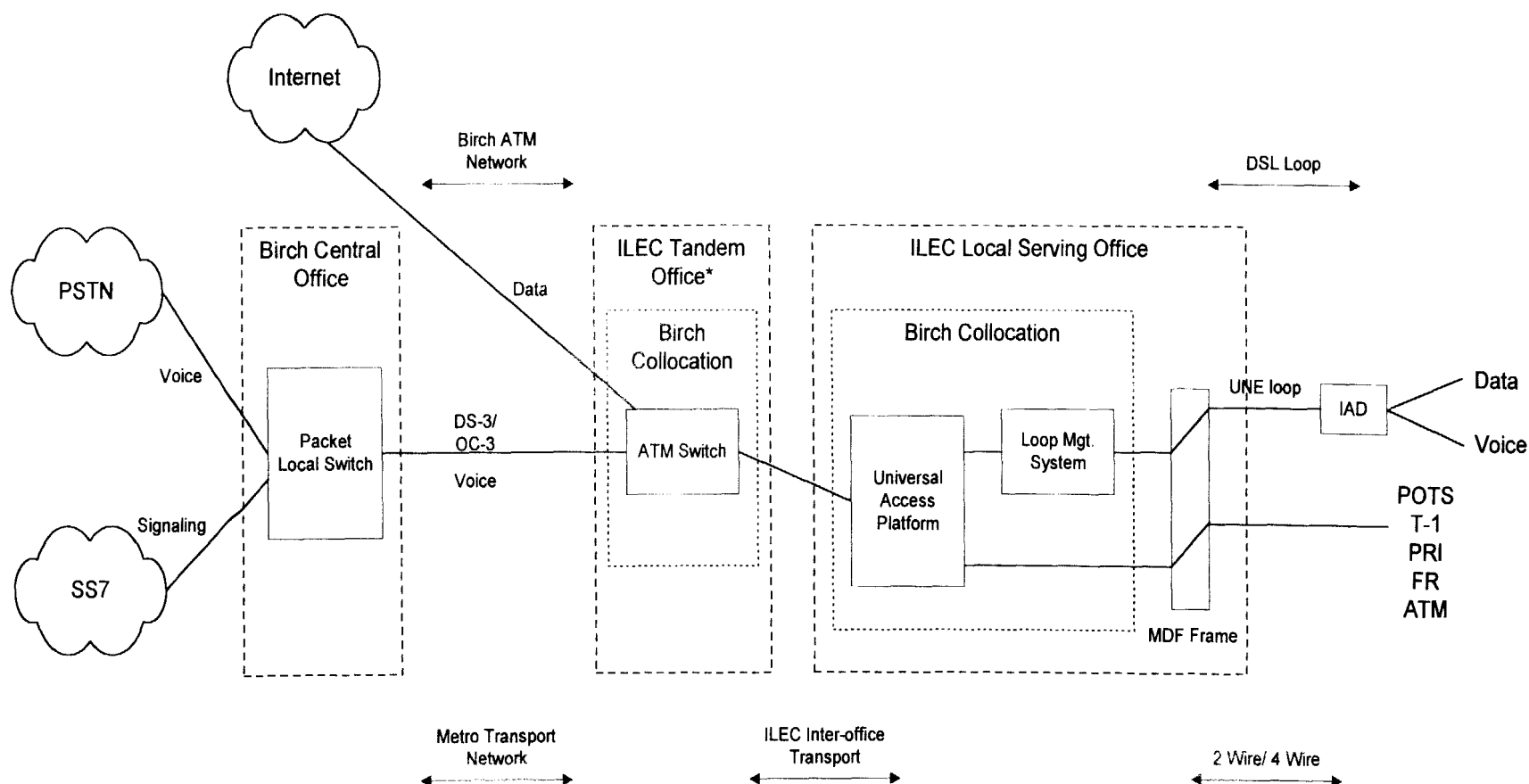
### UNE-P



## Birch's Data Network Architecture Today



## Birch's Future Voice and Data Network



## **Next-Generation Facilities-Based Objectives**

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- Improve margins through increased network efficiencies, allowing Birch to serve small customers economically over its own facilities.
  - Provide compelling new features and services to those who haven't been able to receive them from the incumbent or "big business" CLECs.
  - Bring the tools of big business to Birch small business and residential subscribers.
    - Advanced messaging services
    - Self-provisioning of additional lines and bandwidth
    - Follow-me services
    - Video conferencing
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## **An Increase in the Line Cap is Critical**

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- We have demonstrated that--even where a circuit switch is already in place--it is not economical to serve customers under the DS1 level through self-provisioned switching.
    - Because of the costs associated with the provisioning process, it is not cost effective at the margin to provide individual analog voice lines to a customer through self-provisioned switching.
    - The CLECs opposed to an increase in the line cap are serving very different markets and have very different business plans; their experience does not mean there is no impairment.
  - Birch is currently precluded from serving a segment of our market critical to our overall viability and our ability to serve a broad customer base.
  - The ability to serve the top 50 markets and grow a customer base is critical both to our ability to continue to serve secondary and tertiary markets and to successfully transition to and develop a softswitch-based VoDSL strategy.
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## **An Increase in the Line Cap is Critical**

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- An increase in the line cap does not stifle the incentive to deploy facilities.
  - Circuit switch deployment remains viable for larger customers.
  - Birch deploys facilities even where there is no line cap, e.g., TX, MO, OK, KS.
- UNE-P is the critical element in the transition to next-generation voice and data facilities, particularly for the mass market.